Court No. 2

THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Appeal from Order No. 304 of 2003

State of U.P. now Uttaranchal
through Director Medical Health
&Family Welfare & 2 others … **Appellants.**

Versus

Smt. Bhagirathi Pant
and others. … **Respondents.**

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

This appeal has been preferred under Section 173 of the Motor Vehicles Act, 1988 (***in short the Act***) against the judgment and Award dated 26-06-2002 passed in M.A.C. Case No. 162 of 1999, Smt. Bhagirathi Pant & others Vs. Director, Medical Health & Family Welfare Department, U.P. Lucknow and others, by Motor Accident Claims Tribunal/Addl. District Judge, II Fast Track Court, Nainital (***in short the Tribunal***), whereby the learned Tribunal ha allowed the claim petition and has awarded Rs. 6,60,000/- as compensation along with interest @ 9% per annum, as mentioned in the impugned order, in favour of the claimant-respondent Nos. 1 to 4 against the Opposite Parties-appellants under Section 166 of the Act. Aggrieved, the opposite parties-appellants have come up in appeal for setting aside the impugned judgment and award passed by the learned Tribunal mainly on the ground that the deceased was a gratuitous passenger in the vehicle involved in the accident and the accident in question was not the outcome of the rash and negligent driving by the diver of Vehicle No. UP-32-T-5164 and that the quantum of compensation is excessive and not based on the evidence on record.

We have heard leaned counsel for the appellants, Sri Bhupender Singh, learned Standing Counsel, as well as learned

counsel for the claimant-respondents, Mr. Amar Nath Sharma, and have carefully gone through the entire material available on record including the impugned judgment and award.

In this appeal, learned counsel for the parties have come to a settlement that the amount of compensating, i.e. Rs. 6,60,000/- as awarded by the learned Tribunal be reduced to RS. 66,00,000/- and the appeal may be disposed of in terms of this agreement.

Accordingly, the appeal is disposed of in terms of the compromise arrived at between both the parties. The claimant-respondents are entitled to get total compensation of ***Rs.6,00,000/- (six lacs) instead of Rs. 6,00,000/-*** along with interest as awarded by the learned Tribunal.

17-09-2004 **(B .S.Verma, J.)** **(P.C. Verma, J.)**
RCP